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9
10 **BEFORE THE**
11 **MEDICAL BOARD OF CALIFORNIA**
12 **DEPARTMENT OF CONSUMER AFFAIRS**
13 **STATE OF CALIFORNIA**

14 In the Matter of the Automatic Suspension Order
15 Against:

16 **LOKESH SHANTANU TANTUWAYA, M.D.**
3258 Via Ribera
Escondido, CA 92029

18 **Physician's and Surgeon's Certificate**
19 **No. G 79268,**

20 Respondent.

Case No. 800-2018-044637

**NOTICE OF AUTOMATIC
SUSPENSION OF LICENSE**

[Bus. & Prof. Code, § 2236.1]

21
22 **TO LOKESH SHANTANU TANTUWAYA, M.D.:**

23 **YOU ARE HEREBY NOTIFIED** that the Medical Board of California, Department of
24 Consumer Affairs (Board), has automatically suspended Physician's and Surgeon's Certificate
25 No. G 79268 by operation of law after having received and reviewed a certified copy of the
26 record of conviction described below:

27 1. On or about September 1, 2022, in a criminal proceeding entitled, *United States of*
28 *America v. Lokesh Tantuwaya*, in United States District Court, Central District, No. SA CR 18-

1 40-JLS, Respondent pled guilty to one felony count of conspiracy to commit honest services
2 fraud and to receive illegal payments for health care kickbacks, in violation of 18 U.S.C. § 371.

3 2. On or about December 9, 2022, Respondent was sentenced to serve five (5) years in
4 federal prison and ordered to forfeit \$3.3 million in illegal bribes. Respondent was ordered into
5 the custody of the Federal Bureau of Prisons.

6 3. The following documents support these findings, are attached hereto, and are
7 incorporated herein by reference:

8 Attachment A: Certified Copy of the Indictment in Case No. SA CR 18-40-JLS,;

9 Attachment B: Certified Copy of the Plea Agreement in Case No. SA CR 18-40-JLS,;

10 Attachment C: Certified Copy of U.S. District Court Minutes in Case No. SA CR 18-
11 40-JLS; and

12 Attachment D: Judgment and Probation Commitment Order in Case No. SA CR 18-
13 40-JLS.

14 **INCARCERATION: AUTOMATIC SUSPENSION**

15 4. Section 2236.1 of the Code states:

16 (a) A physician and surgeon's certificate shall be suspended automatically
17 during any time that the holder of the certificate is incarcerated after conviction of a
18 felony, regardless of whether the conviction has been appealed. The Division of
19 Medical Quality shall, immediately upon receipt of the certified copy of the record of
20 conviction, determine whether the certificate of the physician and surgeon has been
21 automatically suspended by virtue of the physician and surgeon's incarceration, and if
22 so, the duration of that suspension. The division shall notify the physician and
23 surgeon of the license suspension and of the right to elect to have the issue of penalty
24 heard as provided in this section.

25 (b) Upon receipt of the certified copy of the record of conviction, if after a
26 hearing it is determined therefrom that the felony of which the licensee was convicted
27 was substantially related to the qualifications, functions, or duties of a physician and
28 surgeon, the Division of Medical Quality shall suspend the license until the time for
appeal has elapsed, if an appeal has not been taken, or until the judgment of
conviction has been affirmed on appeal or has otherwise become final, and until
further order of the division. The issue of substantial relationship shall be heard by an
administrative law judge from the Medical Quality Hearing Panel sitting alone or
with a panel of the division, in the discretion of the division.

(c) Notwithstanding subdivision (b), a conviction of any crime referred to in
Section 2237, or a conviction of Section 187, 261, 288, or former Section 262, of the
Penal Code, shall be conclusively presumed to be substantially related to the
qualifications, functions, or duties of a physician and surgeon and a hearing shall not

1 be held on this issue. Upon its own motion or for good cause shown, the division may
2 decline to impose or may set aside the suspension when it appears to be in the interest
of justice to do so, with due regard to maintaining the integrity of and confidence in
the medical profession.

3 (d)(1) Discipline may be ordered in accordance with Section 2227, or the
4 Division of Licensing may order the denial of the license when the time for appeal
has elapsed, the judgment of conviction has been affirmed on appeal, or an order
5 granting probation is made suspending the imposition of sentence, irrespective of a
subsequent order under Section 1203.4 of the Penal Code allowing the person to
6 withdraw the plea of guilty and to enter a plea of not guilty, setting aside the verdict
of guilty, or dismissing the accusation, complaint, information, or indictment.

7 (2) The issue of penalty shall be heard by an administrative law judge from the
8 Medical Quality Hearing Panel sitting alone or with a panel of the division, in the
discretion of the division. The hearing shall not be had until the judgment of
9 conviction has become final or, irrespective of a subsequent order under Section
1203.4 of the Penal Code, an order granting probation has been made suspending the
10 imposition of sentence; except that a licensee may, at the licensee's option, elect to
have the issue of penalty decided before those time periods have elapsed. Where the
11 licensee so elects, the issue of penalty shall be heard in the manner described in this
section at the hearing to determine whether the conviction was substantially related to
12 the qualifications, functions, or duties of a physician and surgeon. If the conviction of
a licensee who has made this election is overturned on appeal, any discipline ordered
13 pursuant to this section shall automatically cease. This subdivision does not prohibit
the division from pursuing disciplinary action based on any cause other than the
14 overturned conviction.

15 (e) The record of the proceedings resulting in the conviction, including a
transcript of the testimony therein, may be received in evidence.

16 (f) The other provisions of this article setting forth a procedure for the
17 suspension or revocation of a physician and surgeon's certificate shall not apply to
proceedings conducted pursuant to this section.

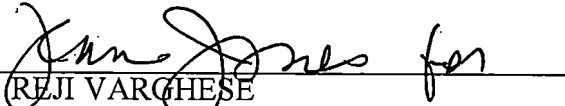
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19 WHEREFORE, THE MEDICAL BOARD OF CALIFORNIA, DEPARTMENT OF
20 CONSUMER AFFAIRS, HEREBY NOTIFIES YOU THAT, by virtue of said conviction and
21 incarceration, Physician's and Surgeon's Certificate No. G 79268 issued to Lokesh Shantanu
22 Tantuwaya, M.D., was automatically suspended by operation of law pursuant to Business and
23 Professions Code section 2236.1, subdivision (a).

24 Said suspension shall remain in effect while you are incarcerated, and shall continue
25 thereafter until a hearing may be held pursuant to Business and Professions Code section 2236.1,
26 subdivision (d), or until further order of the Board.

27 **YOU ARE FURTHER NOTIFIED THAT** you have a right to a hearing on the issue of
28 penalty, as provided by Business and Professions Code section 2236.1, subdivision (d). A request

1 for penalty hearing may be made by delivering or mailing such a request to: Keith C. Shaw,
2 Deputy Attorney General, Department of Justice, Office of the Attorney General, 600 W.
3 Broadway, 18th Floor, San Diego, California 92102.

4
5 DATED: JAN 31 2023


REJI VARGHESE
Deputy Director
Medical Board of California
Department of Consumer Affairs
State of California
Complainant

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EXHIBIT

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U.S. DISTRICT COURT
CENTRAL DIST. OF CALIF.
LOS ANGELES

UNITED STATES DISTRICT COURT
FOR THE CENTRAL DISTRICT OF CALIFORNIA

February 2018 Grand Jury

UNITED STATES OF AMERICA,

Plaintiff,

v.

LOKESH S. TANTUWAYA,

Defendant.

SA CR No. 18-

08-18 00040-DOC

I N D I C T M E N T

[18 U.S.C. §§ 371: Conspiracy; 18 U.S.C. §§ 1341, 1346: Mail Fraud Involving Deprivation of Honest Services; 18 U.S.C. §§ 1343, 1346: Wire Fraud Involving Deprivation of Honest Services; 18 U.S.C. § 1952(a)(3): Use of Interstate Facility in Aid of Unlawful Activity; 42 U.S.C. § 1320a-7b(b)(1)(A): Soliciting and Receiving Illegal Remuneration for Health Care Referrals; 18 U.S.C. § 2: Aiding and Abetting and Causing an Act to be Done; 18 U.S.C. §§ 982(a)(7), 981(a)(1)(C) and 28 U.S.C. § 2461(c): Criminal Forfeiture]

The Grand Jury charges:

COUNT ONE

[18 U.S.C. § 371]

A. INTRODUCTORY ALLEGATIONS

At all times relevant to this Indictment:

1 1. Healthsmart Pacific Inc., doing business as Pacific
2 Hospital of Long Beach ("Pacific Hospital"), was a hospital located
3 in Long Beach, California, specializing in surgeries, particularly
4 spinal and orthopedic surgeries. From at least in or around 1997 to
5 October 2013, Pacific Hospital was owned and/or operated by Michael
6 D. Drobot ("Drobot"). Along with Drobot, Pacific Hospital Owner 2
7 (unindicted co-conspirator ("UCC") A) owned and/or operated Pacific
8 Hospital from in or around 2005 to in or around October 2010. James
9 Canedo ("Canedo") was the Chief Financial Officer of Pacific
10 Hospital. UCC-B was an executive and attorney at Pacific Hospital.
11 UCC-C was an executive and attorney at Pacific Hospital.

12 2. Defendant LOKESH S. TANTUWAYA ("defendant TANTUWAYA") was a
13 neurosurgeon with a medical practice in San Diego, California.

14 3. Dr. Lokesh S. Tantuwaya, M.D., Inc. was a corporation,
15 owned and controlled by defendant TANTUWAYA, that was located in San
16 Diego, California.

17 4. MD Aviation, LLC was a limited liability company, owned and
18 controlled by defendant TANTUWAYA, that was located in San Diego, CA.

19 5. Paul Randall ("Randall") was a "marketer" who did business
20 with Pacific Hospital and various other entities and individuals and
21 who facilitated defendant TANTUWAYA's relationship with Pacific
22 Hospital.

23 6. Alan Ivar ("Ivar") was a chiropractor who did business with
24 Pacific Hospital and various other entities and individuals and
25 referred his patients to defendant TANTUWAYA for surgeries to be
26 performed at Pacific Hospital.

27 7. Sean O'Keefe ("O'Keefe") was an attorney licensed in
28 California, specializing in workers' compensation claims, who did

1 business with Drobot and referred surgeries to defendant TANTUWAYA to
2 be performed at Pacific Hospital.

3 8. International Implants LLC ("I2") was a limited liability
4 company, controlled by Drobot and headquartered in Newport Beach,
5 California, that purchased implantable medical devices, hardware, and
6 instrumentation for spinal surgeries ("spinal hardware") from
7 original manufacturers and sold them to hospitals, particularly
8 Pacific Hospital.

9 9. Pacific Specialty Physician Management, Inc. ("PSPM") was a
10 corporation, owned and controlled by Drobot and others and
11 headquartered in Newport Beach, California, that provided
12 administrative and management services for physicians' offices.

13 10. UCC-D was the controller at various Drobot-owned and/or -
14 controlled entities, including I2 and PSPM (collectively, "Pacific
15 Hospital and Affiliated Entities"), who communicated with defendant
16 TANTUWAYA about his surgeries performed at Pacific Hospital. UCC-A
17 through UCC-D are collectively referred to as "the UCCs".

18 California Workers' Compensation System ("CWCS")

19 11. The California Workers' Compensation System ("CWCS") was a
20 system created by California law to provide insurance covering
21 treatment of injury or illness suffered by individuals in the course
22 of their employment. Under the CWCS, employers were required to
23 purchase workers' compensation insurance policies from insurance
24 carriers to cover their employees. When an employee suffered a
25 covered injury or illness and received medical services, the medical
26 service provider submitted a claim for payment to the relevant
27 insurance carrier, which then paid the claim. Claims were submitted
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1 to and paid by insurance carriers either by mail or electronically.

2 The CWCS was governed by various California laws and regulations.

3 12. The California State Compensation Insurance Fund ("SCIF")
4 was a non-profit insurance carrier, created by the California
5 Legislature, that provided workers' compensation insurance to
6 employees in California, including serving as the "insurer of last
7 resort" under the CWCS system for employers without any other
8 coverage.

9 Health Care Programs

10 13. SCIF and other workers' compensation insurance carriers,
11 personal injury insurers, and other public and private
12 plans and contracts, were "health care benefit programs" (as defined
13 in 18 U.S.C. § 24(b)), that affected commerce.

14 14. The Federal Employees' Compensation Act ("FECA") provided
15 certain benefits to civilian employees of the United States,
16 including United States Postal Service employees, for medical
17 expenses and wage-loss disability due to a traumatic injury or
18 occupational disease sustained while working as a federal employee.
19 Benefits available to injured employees included rehabilitation,
20 medical, surgical, hospital, pharmaceutical, and supplies for
21 treatment of an injury. The Department of Labor ("DOL") - Office of
22 Workers' Compensation Programs ("OWCP") was the governmental body
23 responsible for administering the FECA program. When a federal
24 employee suffered a covered injury or illness and received medical
25 services, the medical service provider submitted a claim for payment
26 by mail or electronically to Affiliated Computer Services ("ACS"),
27 located in London, Kentucky, which was contracted with the DOL to
28 handle such claims. Upon approval of the claim, ACS sent payment by

1 mail or electronic funds transfer from the U.S. Treasury in
2 Philadelphia, Pennsylvania to the medical service provider. The FECA
3 program was a federal health care program ("FHCP"), as defined in 42
4 U.S.C. § 1320a-7b(f).

5 Relevant California Laws Pertaining to Bribery and Kickbacks

6 15. California law, including the California Business and
7 Professions Code and the California Insurance Code, prohibited the
8 offering, delivering, soliciting, or receiving of anything of value
9 in return for referring a patient for medical services.

10 16. California Business & Professions Code Section 650
11 prohibited the offer, delivery, receipt, or acceptance by certain
12 licensees -- specifically including physicians -- of any commission
13 or other consideration, whether in the form of money or otherwise, as
14 compensation or inducement for referring patients, clients, or
15 customers to any person.

16 17. California Insurance Code Section 750(a) prohibited anyone
17 who engaged in the practice of processing, presenting, or negotiating
18 claims -- including claims under policies of insurance -- from
19 offering, delivering, receiving, or accepting any commission or other
20 consideration, whether in the form of money or otherwise, as
21 compensation or inducement to any person for the referral or
22 procurement of clients, cases, patients, or customers.

23 18. Before January 2013, California law allowed a hospital to
24 bill the cost of spinal hardware separately from the other costs of a
25 surgery, such as the surgeon's services and the hospital facility
26 fee, the reimbursement rates of which were set by a fee schedule.
27 The spinal hardware was considered a "pass-through" cost and billing
28

1 was limited to \$250 over what the hospital paid for the spinal
2 hardware.

3 19. Between January 2010 and August 2012, the California Senate
4 and the Division of Workers' Compensation, an agency within the CWCS
5 system, took several steps designed to modify or eliminate the pass-
6 through.

7 20. By January 2013, California law was amended to eliminate
8 the separate billing of spinal hardware; subsequently, reimbursement
9 for all costs of a surgery was limited to a fee schedule.

10 21. Federal law prohibited the offering, delivering,
11 soliciting, or receiving of anything of value in return for referring
12 a patient for medical services paid for by a FHCP.

13 Fiduciary Duties and the Physician-Patient Relationship

14 22. A "fiduciary" obligation generally existed whenever one
15 person -- a client -- placed special trust and confidence in another
16 -- the fiduciary -- in reliance that the fiduciary would exercise his
17 or her discretion and expertise with the utmost honesty and
18 forthrightness in the interests of the client, such that the client
19 could relax the care and vigilance she or he would ordinarily
20 exercise, and the fiduciary knowingly accepted that special trust and
21 confidence and thereafter undertook to act on behalf of the client
22 based on such reliance.

23 23. Physicians owed a fiduciary duty to their patients,
24 requiring physicians to act in the best interest of their patients,
25 and not for their own professional, pecuniary, or personal gain.
26 Physicians owed a duty of honest services to their patients for
27 decisions made relating to the medical care of those patients,
28 including the informed choice of whether to undergo surgery and other

1 medical procedures, as well as the selection of a provider and
2 facility for such surgeries and procedures. Patients' right to
3 honest services from physicians included the right not to have
4 physician-fiduciaries solicit or accept bribes and kickbacks
5 connected to the medical care of such patients.

6 B. OBJECTS OF THE CONSPIRACY

7 24. Beginning on an unknown date, but no later than in or
8 around January 2010, and continuing through at least in or around May
9 2013, in Orange and Los Angeles Counties, within the Central District
10 of California, and elsewhere, defendant TANTUWAYA, Drobot, Canedo,
11 Randall, Ivar, O'Keefe, the UCCs, and others known and unknown to the
12 Grand Jury at various times, knowingly combined, conspired, and
13 agreed to commit the following offenses against the United States:

14 (i) Honest services mail fraud, in violation of Title 18, United
15 States Code, Sections 1341 and 1346; (ii) Honest services wire fraud,
16 in violation of Title 18, United States Code, Sections 1343 and 1346;
17 (iii) Use of an interstate facility in aid of bribery, in violation
18 of Title 18, United States Code, Section 1952(a); (iv) Monetary
19 transactions in property derived from specified unlawful activity, in
20 violation of Title 18, United States Code, Section 1957; and
21 (v) Payment and receipt of kickbacks in connection with a federal
22 health care program, in violation of Title 42, United States Code,
23 Section 1320a-7b(b)(1) and (2).

24 C. MANNER AND MEANS OF THE CONSPIRACY

25 25. The objects of the conspiracy were to be carried out, and
26 were carried out, in the following ways, among others:

27 a. Drobot, Canedo, the UCCs, and other co-conspirators
28 working with Pacific Hospital and Affiliated Entities would offer to

1 pay and cause the payment of kickbacks to defendant TANTUWAYA and
2 other surgeons (the "Pacific Induced Surgeons"), chiropractors,
3 personal injury attorneys, marketers, and others (collectively, the
4 "Pacific Kickback Recipients") in exchange for patient-related
5 referrals to Pacific Hospital and Affiliated Entities for spinal
6 surgeries, other types of surgeries, magnetic resonance imaging
7 ("MRI"), toxicology, durable medical equipment, and other services
8 (the "Kickback Tainted Surgeries and Services") that would be billed
9 to health care benefit programs or subject to personal injury claims
10 and/or liens.

11 b. Influenced by the promise of kickbacks, Pacific
12 Kickback Recipients, including defendant TANTUWAYA, would cause
13 patients insured by various health care benefit programs to have
14 Kickback Tainted Surgeries and Services at Pacific Hospital and
15 Affiliated Entities.

16 c. Pacific Hospital and Affiliated Entities and Pacific
17 Induced Surgeons, including defendant TANTUWAYA, would submit claims,
18 by mail and electronically, to health care benefit programs and
19 personal injury law firms and/or attorneys (collectively, "Potential
20 Claim Payers") for payments related to the Kickback Tainted Surgeries
21 and Services.

22 d. As Drobot, defendant TANTUWAYA, and other co-
23 conspirators knew and intended, and as was reasonably foreseeable to
24 them, in using the mails, wire communications, and facilities in
25 interstate commerce to: (i) communicate about patient referrals and
26 underlying kickback arrangements, (ii) submit claims to Potential
27 Claim Payers for the Kickback Tainted Surgeries and Services, and
28 (iii) obtain payment from Potential Claim Payers for the Kickback

1 Tainted Surgeries and Services, Drobot, defendant TANTUWAYA, and
2 other co-conspirators would solicit, offer, receive, or pay, and/or
3 cause the solicitation, offering, receipt, and payment of kickbacks
4 that were material to patients and Potential Claim Payers.

5 e. In soliciting and receiving concealed bribes and
6 kickbacks to induce the referral of patients and corresponding
7 ancillary services to Pacific Hospital and Affiliated Entities,
8 defendant TANTUWAYA and other medical professionals would deprive
9 patients of their right to honest services.

10 f. Using the mails and other facilities in interstate
11 commerce, Drobot, Canedo, the UCCs, and other co-conspirators would
12 communicate about and pay, and cause the payment of, kickbacks to
13 Pacific Kickback Recipients, including defendant TANTUWAYA, who
14 referred and caused the referral of Kickback Tainted Surgeries and
15 Services to Pacific Hospital and Affiliated Entities.

16 g. Potential Claim Payers would pay Pacific Hospital and
17 Affiliated Entities and Pacific Induced Surgeons, including defendant
18 TANTUWAYA, for the Kickback Tainted Surgeries and Services by mail
19 and electronically.

20 h. To conceal and disguise the kickback payments from
21 Potential Claim Payers, patients, and law enforcement, Drobot,
22 Canedo, the UCCs, and other co-conspirators, through Pacific Hospital
23 and Affiliated Entities, would enter into arrangements with Pacific
24 Kickback Recipients, including defendant TANTUWAYA. In many cases,
25 these arrangements would be reduced to written contracts, including,
26 among others, directorship agreements, option agreements, and lease
27 agreements.

1 i. The written contracts would not specify that one
2 purpose for the agreements would be to induce Pacific Kickback
3 Recipients to refer Kickback Tainted Surgeries and Services to
4 Pacific Hospital and Affiliated Entities. Additionally, the value or
5 consideration discussed as part of these arrangements would, in fact,
6 generally not be provided or desired; rather, the compensation would
7 be paid, entirely or in part, depending on the arrangement, to cause
8 Pacific Kickback Recipients to refer Kickback Tainted Surgeries and
9 Services to Pacific Hospital and Affiliated Entities. Relatedly, the
10 written contracts would generally allow for remuneration to Pacific
11 Kickback Recipients far in excess of any reasonable fair market value
12 assessment of legitimate services or things of value purportedly
13 contracted for -- to the extent calculated without regard to the
14 value of the Kickback Tainted Surgeries and Services.

15 j. Defendant TANTUWAYA would receive remuneration in
16 exchange for performing Kickback Tainted Surgeries and Services at
17 Pacific Hospital and Affiliated Entities. The illegal kickback and
18 bribe payments would be provided to defendant TANTUWAYA under the
19 guise of bogus contracts, including a neurosurgery directorship
20 agreement, an option agreement purportedly to acquire defendant
21 TANTUWAYA's medical practice, and an aircraft lease agreement with MD
22 Aviation, LLC.

23 k. Drobot and other co-conspirators would also cause
24 Pacific Kickback Recipients to refer Kickback Tainted Surgeries and
25 Services to Pacific Induced Surgeons, who were obligated to bring
26 such surgeries and services to Pacific Hospital and Affiliated
27 Entities. For example, based on various interrelated kickback
28 arrangements, Ivar would refer spinal surgeries to defendant

1 TANTUWAYA and others, who would perform such referred surgeries at
2 Pacific Hospital.

3 1. Drobot, Canedo, the UCCs, and others would maintain,
4 review, and/or communicate about records of the number of Kickback
5 Tainted Surgeries and Services performed at Pacific Hospital and
6 Affiliated Entities due to referrals from defendant TANTUWAYA and
7 other Pacific Kickback Recipients, as well as the amounts owed and
8 paid to defendant TANTUWAYA and other Pacific Kickback Recipients for
9 such referrals.

10 D. EFFECTS OF THE CONSPIRACY

11 26. Had Potential Claim Payers and patients known the true
12 facts regarding the payment of kickbacks for the referral of Kickback
13 Tainted Surgeries and Services performed at Pacific Hospital: (i) the
14 Potential Claim Payers would have subjected the claims to additional
15 review, would not have paid the claims, and/or would have paid a
16 lesser amount on the claims; and (ii) patients would have more
17 closely scrutinized a surgery or hospital service recommendation,
18 would have sought second opinions from physicians who did not have a
19 financial conflict of interest, would not have had the surgery or
20 service performed, and/or would have insisted on a different hospital
21 facility.

22 27. From in or around 2008 to in or around April 2013, Pacific
23 Hospital billed Potential Claim Payers at least approximately \$500
24 million in claims for the Kickback Tainted Surgeries and Services.
25 Between in or about January 2010 to in or around April 2013,
26 defendant TANTUWAYA performed and/or referred Kickback Tainted
27 Surgeries and Services comprising at least approximately \$38 million
28 of the total amount Pacific Hospital billed to Potential Claim

1 Payers, and for which Pacific Hospital was paid more than
2 approximately \$16 million. Drobot, Canedo, the UCCs, and other co-
3 conspirators, through Pacific Hospital and Affiliated Entities, paid
4 and caused to be paid to defendant TANTUWAYA at least approximately
5 \$3.2 million in connection with his Kickback Tainted Surgeries and
6 Services.

7 E. OVERT ACTS

8 28. On or about the following dates, in furtherance of the
9 conspiracy and to accomplish the objects of the conspiracy, defendant
10 TANTUWAYA, Drobot, Canedo, Randall, Ivar, O'Keefe, the UCCs, and
11 other co-conspirators known and unknown to the Grand Jury, committed,
12 willfully caused others to commit, and aided and abetted the
13 commission of the following overt acts, among others, within the
14 Central District of California and elsewhere:

15 Overt Act No. 1: On an unknown date, Drobot and defendant
16 TANTUWAYA executed a "Neurosurgery Directorship Agreement," effective
17 December 1, 2009, where Drobot purported to pay defendant TANTUWAYA
18 \$15,000 per month for advising the hospital on the development of a
19 spine surgery program for patients from outside the Long Beach area.

20 Overt Act No. 2: On or about January 26, 2010, Drobot caused
21 Pacific Hospital to make a \$15,000 payment to Lokesh Tantuwaya, M.D.,
22 Inc.

23 Overt Act No. 3: On an unknown date, Drobot and defendant
24 TANTUWAYA executed an "Option Agreement Regarding Medical Practice of
25 Lokesh Tantuwaya, M.D.," effective March 1, 2010, where Drobot
26 purported to pay defendant TANTUWAYA \$70,000 per month for the option
27 of purchasing his medical practice.

1 Overt Act No. 4: On or about March 3, 2010, Drobot caused
2 Pacific Hospital to make a \$15,000 payment to Lokesh Tantuwaya, M.D.,
3 Inc.

4 Overt Act No. 5: On an unknown date, defendant Drobot and
5 defendant TANTUWAYA executed an "Option to Acquire Medical Practice"
6 effective April 1, 2010, where Drobot purported to pay defendant
7 TANTUWAYA \$60,000 per month for the option of purchasing his medical
8 practice.

9 Overt Act No. 6: On or about May 11, 2010, Drobot caused PSPM
10 to make a \$40,000 payment to Lokesh Tantuwaya, M.D., Inc.

11 Overt Act No. 7: On an unknown date, defendant Drobot and
12 defendant TANTUWAYA executed an "Option to Acquire Medical Practice
13 First Amendment," effective August 1, 2010, where Drobot purported to
14 pay defendant TANTUWAYA \$100,000 per month for the option of
15 purchasing his medical practice.

16 Overt Act No. 8: On or about August 9, 2010, UCC-D sent an
17 email to UCC-B where UCC-D reported in the email attachment: (i) the
18 types of contracts through which defendant TANTUWAYA and other
19 medical professionals were paid, (ii) the total surgeries defendant
20 TANTUWAYA performed at Pacific Hospital, and (iii) that defendant
21 TANTUWAYA had been paid \$210,000 and was owed \$75,000 more, and UCC-D
22 "agree[d] with Lokesh that there were more done than [the records]
23 showed."

24 Overt Act No. 9: On or about August 24, 2010, Drobot caused
25 PSPM to make a \$100,000 payment to Lokesh Tantuwaya, M.D., Inc.

26 Overt Act No. 10: In or around 2010 or 2011, defendant
27 TANTUWAYA, Drobot, and O'Keefe met in San Diego for the purpose of
28 establishing a kickback arrangement where Drobot would pay kickbacks

1 to O'Keefe in exchange for O'Keefe referring surgeries to defendant
2 TANTUWAYA that would be performed at Pacific Hospital.

3 Overt Act No. 11: On or about April 4, 2011, Drobot caused
4 PSPM to make a \$98,900 payment to Lokesh Tantuwaya, M.D., Inc.

5 Overt Act No. 12: On or about May 19, 2011, O'Keefe emailed
6 defendant TANTUWAYA, copying Drobot and UCC-B, stating that "by now
7 you should have received 12 to 14 new pts" and noting that he planned
8 to refer at least ten new cases to defendant TANTUWAYA per week.

9 Overt Act No. 13: On or about May 19, 2011, O'Keefe emailed
10 defendant TANTUWAYA, copying Drobot, UCC-B, and others, stating that
11 he was referring a patient to defendant TANTUWAYA.

12 Overt Act No. 14: On or about May 25, 2011, O'Keefe emailed
13 Drobot, copying UCC-B and others, stating that: (i) he needed
14 information regarding payroll for his employees, "Perla and Eliza,"
15 and (ii) he had referred about 30 spine surgery cases to defendant
16 TANTUWAYA and planned to refer dozens more, and suggested that they
17 meet with defendant TANTUWAYA.

18 Overt Act No. 15: On or about May 25, 2011, defendant
19 TANTUWAYA performed a lumbar surgery on patient E.S.

20 Overt Act No. 16: On or about June 8, 2011, Drobot caused PSPM
21 to make a \$100,000 payment to Lokesh Tantuwaya, M.D., Inc.

22 Overt Act No. 17: On or about June 24, 2011, Drobot caused
23 PSPM to make a \$155,000 payment to Lokesh Tantuwaya, M.D., Inc.

24 Overt Act No. 18: On or about June 29, 2011, defendant
25 TANTUWAYA performed a lumbar surgery on patient E.S.

26 Overt Act No. 19: On or about June 30, 2011, Canedo and UCC-B
27 discussed via email tracking defendant TANTUWAYA's surgeries at
28

1 Pacific Hospital and UCC-B stated: "I also have done what you did
2 last week with Tantuwaya's cases so we could settle up with him."

3 Overt Act No. 20: On or about July 18, 2011, UCC-B emailed
4 Drobot and reported: (i) defendant TANTUWAYA performed four surgeries
5 at Pacific Hospital, (ii) two of the surgeries were lumbar fusion
6 surgeries in which I2 implants were used, and that the amount owed
7 for those surgeries was \$15,000 each, (iii) that one was a lumbar
8 fusion surgery without I2 implants, for which \$7,500 was owed,
9 (iv) that one was a cervical fusion surgery without I2 implants, for
10 which \$5,000 was owed, and (v) for which defendant TANTUWAYA was owed
11 a total of \$42,500.

12 Overt Act No. 21: On or about July 20, 2011, defendant
13 TANTUWAYA performed a lumbar surgery on patient W.Q.

14 Overt Act No. 22: On or about August 24, 2011, defendant
15 TANTUWAYA performed a lumbar surgery on patient W.Q.

16 Overt Act No. 23: On or about August 24, 2011, Drobot caused
17 PSPM to make a \$175,000 payment to Lokesh Tantuwaya, M.D., Inc.

18 Overt Act No. 24: On or about September 14, 2011, defendant
19 TANTUWAYA performed a lumbar surgery on patient E.S.

20 Overt Act No. 25: On or about September 14, 2011, Drobot
21 caused PSPM to make a \$37,500 payment to Lokesh Tantuwaya, M.D., Inc.

22 Overt Act No. 26: On or about September 17, 2011, defendant
23 TANTUWAYA sent an email to Drobot regarding the purchase of a Phenom
24 100 plane.

25 Overt Act No. 27: On or about September 27, 2011, Drobot
26 caused PSPM to make a \$100,000 payment to Lokesh Tantuwaya, M.D.,
27 Inc.

1 Overt Act No. 28: On or about October 5, 2011, defendant
2 TANTUWAYA performed a lumbar surgery on patient R.S.

3 Overt Act No. 29: On or about October 13, 2011, Drobot caused
4 PSPM to make a \$75,000 payment to Lokesh Tantuwaya, M.D., Inc.

5 Overt Act No. 30: On or about October 19, 2011, defendant
6 TANTUWAYA performed a lumbar surgery on patient C.R.

7 Overt Act No. 31: On or about November 2, 2011, UCC-B sent an
8 email to Drobot and stated "we owe Dr. Tantuwaya \$178,000, primarily
9 for past surgeries we never paid for. However, if you match October
10 cases and payments we owe about \$3,000. Obviously, Dr. T is looking
11 for the higher number, but he's not given me his information and
12 calculation yet."

13 Overt Act No. 32: On or about November 2, 2011, UCC-D emailed
14 UCC-B and stated, "The columns on the left show in total all the
15 fusions done by Dr Tantuwaya. Of that amount I pulled out the 12
16 surgeries as shown in the right 2 columns."

17 Overt Act No. 33: As part of the same November 2, 2011 email
18 chain, UCC-D asks UCC-B, "How does it compare to your numbers?"

19 Overt Act No. 34: As part of the same November 2, 2011 email
20 chain, UCC-B emailed UCC-D and stated, " . . . your numbers are
21 helpful in filling in the January through March timeframe. The end
22 result is something I have to go over with Mike [Drobot], but, it
23 appears close to Tantuwaya's numbers."

24 Overt Act No. 35: As part of the email chain referenced in the
25 preceding Overt Act, on or about November 3, 2011, UCC-B emailed UCC-
26 D, copying Drobot, stating, "My total for October, after a loopback
27 at the actual data shows \$110,000. If you take away 2 cervicals that
28 Randall claims, then the total is \$100,000. So, the \$102,500 is

1 fine. Let's make sure we both record this as full and final payment
2 for October."

3 Overt Act No. 36: On or about November 3, 2011, Drobot caused
4 PSPM to make a \$102,500 payment to Lokesh Tantuwaya, M.D., Inc.

5 Overt Act No. 37: On an unknown date, Drobot and defendant
6 TANTUWAYA executed an "Aircraft Lease Agreement," effective January
7 1, 2012, where Drobot purported to pay defendant TANTUWAYA \$100,000
8 per month for the ability to use defendant TANTUWAYA's aircraft.

9 Overt Act No. 38: On or about January 19, 2012, defendant
10 TANTUWAYA sent an email to Drobot where he stated "I have an issue
11 with some of the patients that Sean [O'Keefe] is claiming to fall
12 under his 'direction' as many of them were referred to me by other
13 sources that he just happened to be the attorney for. Also I want to
14 talk ~~to~~ Mr. Drobot on a more equitable allocation of resources with
15 regards to [t]his patient population."

16 Overt Act No. 39: On or about February 1, 2012, defendant
17 TANTUWAYA performed a lumbar surgery on patient R.T.

18 Overt Act No. 40: On or about February 3, 2012, Drobot caused
19 I2 to make a \$150,000 payment to MD Aviation, LLC.

20 Overt Act No. 41: On or about February 8, 2012, defendant
21 TANTUWAYA performed a lumbar surgery on patient C.M.

22 Overt Act No. 42: On or about May 8, 2012, Drobot caused
23 Pacific Hospital to make a \$40,000 payment to the Law Offices of Sean
24 E. O'Keefe.

25 Overt Act No. 43: On or about May 29, 2012, defendant
26 TANTUWAYA sent an email to Drobot stating, "The remainder of buyin
27 plus half expenses paid thus far comes to \$283,345. Buyin remaining:
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1 150k, etc . . . I will work on option agreement outstanding balance
2 next. Sorry for the delay in getting number to you."

3 Overt Act No. 44: On or about June 13, 2012, defendant
4 TANTUWAYA performed a lumbar surgery on patient L.J.

5 Overt Act No. 45: On or about June 13, 2012, O'Keefe sent UCC-
6 C an email that included a list of patients that he referred to
7 defendant TANTUWAYA that had surgery at PHLB.

8 Overt Act No. 46: On or about July 30, 2012, through an
9 exchange of emails, Drobot, defendant TANTUWAYA, and O'Keefe
10 discussed meeting "at [the] usual restaurant."

11 Overt Act No. 47: On or about August 9, 2012, UCC-C emailed
12 Drobot regarding defendant TANTUWAYA and stated she was "meeting
13 tomorrow to go over everything back to January" and would "up date
14 you next week."

15 Overt Act No. 48: On or about August 20, 2012, UCC-C emailed
16 UCC-D and said that defendant TANTUWAYA would arrive at the Newport
17 Beach office that afternoon to meet with UCC-D.

18 Overt Act No. 49: In or around August 2012, UCC-D created a
19 spreadsheet listing the spinal surgeries defendant TANTUWAYA
20 performed at Pacific Hospital from 2010 through 2012, the amounts
21 defendant TANTUWAYA was to be paid for each surgery, the amounts
22 defendant TANTUWAYA had actually been paid, and the amounts owed to
23 defendant TANTUWAYA.

24 Overt Act No. 50: On or about August 20, 2012, defendant
25 TANTUWAYA met with UCC-D at her office in Newport Beach to review
26 UCC-D's spreadsheet and to reconcile any disagreements over the
27 amount of money owed to defendant TANTUWAYA.

1 Overt Act No. 51: On or about August 22, 2012, UCC-D sent an
2 email to UCC-C regarding defendant TANTUWAYA stating "there were just
3 3 cases that Dr. Tantuwaya thought should be included," and listed
4 three patients who had received lumbar fusion surgeries, as to two of
5 whom "Dr. T said it was an I2 case."

6 Overt Act No. 52: On or about October 10, 2012, defendant
7 TANTUWAYA performed a lumbar surgery on patient E.D.

8 Overt Act No. 53: On or about October 17, 2012, defendant
9 TANTUWAYA met with Drobot and O'Keefe at a restaurant in Del Mar,
10 California to discuss their referral and kickback arrangement.

11 Overt Act No. 54: On or about November 15, 2012, Drobot caused
12 I2 to make a \$170,000 payment to MD Aviation, LLC.

13 Overt Act No. 55: On or about December 6, 2012, Drobot caused
14 I2 to make a \$95,000 payment to MD Aviation, LLC.

15 Overt Act No. 56: On an unknown date, Drobot and defendant
16 TANTUWAYA executed an "Aircraft Lease Agreement MD Aviation LLC First
17 Amendment," effective January 1, 2013, where Drobot purported to pay
18 defendant TANTUWAYA \$50,000 per month for the ability to use
19 defendant TANTUWAYA's aircraft.

20 Overt Act No. 57: On or about January 8, 2013, defendant
21 TANTUWAYA performed a lumbar surgery on patient E.R.

22 Overt Act No. 58: On or about January 9, 2013, defendant
23 TANTUWAYA performed a lumbar surgery on patient J.H.

24 Overt Act No. 59: On or about January 23, 2013, defendant
25 TANTUWAYA performed a lumbar surgery on patient M.G.

26 Overt Act No. 60: On or about January 23, 2013, defendant
27 TANTUWAYA performed a cervical surgery on J.A.

28 Overt Act No. 61: On or about January 23, 2013, defendant

1 performed a lumbar surgery on D.V.

2 Overt Act No. 62: On or about January 28, 2013, Pacific
3 Hospital submitted a bill to Gallagher Bassett in the amount of
4 \$103,595.10 for patient E.R.'s surgery.

5 Overt Act No. 63: On or about January 30, 2013, defendant
6 TANTUWAYA performed a lumbar surgery on patient Er. Ru.

7 Overt Act No. 64: On or about January 30, 2013, defendant
8 TANTUWAYA performed a cervical surgery on patient D.A.

9 Overt Act No. 65: On or about January 30, 2013, defendant
10 TANTUWAYA performed a cervical surgery on patient C.A.

11 Overt Act No. 66: On or about January 30, 2013, defendant
12 TANTUWAYA performed a lumbar surgery on patient J.H.

13 Overt Act No. 67: In or around February 2013, UCC-D created a
14 handwritten ledger to track surgeries performed and kickback payments
15 made to Pacific Kickback Recipients where she noted that \$47,500 was
16 to be paid to defendant TANTUWAYA for performing surgeries.

17 Overt Act No. 68: On or about February 11, 2013, Drobot caused
18 Pacific Hospital to submit a bill to Gallagher Bassett in the amount
19 of \$120,967 for patient J.H.'s surgery.

20 Overt Act No. 69: On or about February 13, 2013, defendant
21 TANTUWAYA submitted a bill to SCIF in the amount of \$15,865.76 for
22 patient M.G.'s surgery.

23 Overt Act No. 70: On or about February 19, 2013, Drobot caused
24 Pacific Hospital to submit a bill to SCIF in the amount of
25 \$139,313.10 for patient M.G.'s surgery.

26 Overt Act No. 71: On or about February 19, 2013, Drobot caused
27 Pacific Hospital to submit a bill to ESIS in the amount of
28 \$131,408.10 for patient Er. Ru's surgery.

1 Overt Act No. 72: On or about February 19, 2013, Drobot caused
2 Pacific Hospital to submit a bill to Sedgwick in the amount of
3 \$122,374.50 for patient D.A.'s surgery.

4 Overt Act No. 73: On or about February 19, 2013, Drobot caused
5 Pacific Hospital to submit a bill to SCIF in the amount of
6 \$113,250.10 for patient C.A.'s surgery.

7 Overt Act No. 74: On or about February 19, 2013, Drobot caused
8 Pacific Hospital to submit a bill to Gallagher Bassett in the amount
9 of \$167,017.00 for patient J.H.'s surgery.

10 Overt Act No. 75: On or about February 27, 2013, defendant
11 TANTUWAYA performed a spinal surgery on patient G.M. at Pacific
12 Hospital.

13 Overt Act No. 76: On or about March 5, 2013, Drobot caused I2
14 to make a \$47,500 payment to MD Aviation, LLC.

15 Overt Act No. 77: On or about March 6, 2013, defendant
16 TANTUWAYA performed a spinal surgery on patient L.T. at Pacific
17 Hospital.

18 Overt Act No. 78: On or about March 20, 2013, defendant
19 TANTUWAYA performed a spinal surgery on patient G.M. at Pacific
20 Hospital.

21 Overt Act No. 79: On or about March 29, 2013, Drobot caused
22 Pacific Hospital to submit a bill to SCIF in the amount of \$130,571
23 for D.V.'s surgery.

24 Overt Act No. 80: On or about April 3, 2013, defendant
25 TANTUWAYA performed a spinal surgery on patient C.H. at Pacific
26 Hospital.

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1 Overt Act No. 81: On or about April 3, 2013, defendant
2 TANTUWAYA performed a spinal surgery on patient C.L. at Pacific
3 Hospital.

4 Overt Act No. 82: On or about April 10, 2013, defendant
5 TANTUWAYA performed a spinal surgery on patient L.T. at Pacific
6 Hospital.

7 Overt Act No. 83: On or about April 10, 2013, defendant
8 TANTUWAYA performed a spinal surgery on patient K.F. at Pacific
9 Hospital.

10 Overt Act No. 84: On or about April 24, 2013, defendant
11 TANTUWAYA performed a spinal surgery on patient C.L. at Pacific
12 Hospital.

13 Overt Act No. 85: On or about May 28, 2013, Drobot caused I2
14 to make a \$111,040 payment to MD Aviation, LLC.

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COUNTS TWO THROUGH EIGHT

[18 U.S.C. §§ 1341, 1346, 2(b)]

29. Paragraphs 1 through 23 and 25 through 28 of this Indictment, including all subparagraphs, are re-alleged and incorporated by reference as if fully set forth herein.

A. THE SCHEME TO DEFRAUD

30. Beginning on an unknown date, but no later than in or about January 2010, and continuing through at least January 2016, in Orange and Los Angeles Counties, within the Central District of California, and elsewhere, defendant TANTUWAYA, Drobot, Canedo, Randall, Ivar, O'Keefe, the UCCs, and others known and unknown to the Grand Jury at various times, knowingly and with intent to defraud, devised, participated in, and executed a scheme to defraud patients of their right to honest services of their physicians' performance of duties as treating physicians and medical providers by soliciting, offering, accepting, and paying bribes and kickbacks to induce the referral of Kickback Tainted Surgeries and Services to Pacific Hospital.

B. OPERATION OF THE SCHEME TO DEFRAUD

31. The fraudulent scheme operated, in substance, as set forth in paragraph 25 of this Indictment.

C. USE OF THE MAILS

32. On or about the following dates, within the Central District of California, and elsewhere, defendant TANTUWAYA, Drobot, Canedo, Randall, Ivar, O'Keefe, the UCCs, and other co-schemers, for the purpose of executing the above-described scheme to defraud, willfully caused the following items to be placed in a post office and authorized depository for mail matter to be delivered by the

Postal Service and private and commercial interstate carrier, as set forth below:

COUNT	APPROXIMATE DATE	MAILING
TWO	03/21/2013	Check (#C7-855632) from SCIF, in the amount of \$9,325.89, which was authorized for payment in the Central District of California, to "Coastal Neurosurgery & Spine Associates," representing defendant TANTUWAYA's professional fees for the surgery of patient M.G., whose surgery defendant TANTUWAYA performed at Pacific Hospital on or about January 23, 2013.
THREE	03/29/2013	Check (#0002379432), in the amount of \$36,676.89, from Sedgwick to Pacific Hospital for reimbursement of the claim related to the hospital-billing component of patient J.A., whose surgery defendant TANTUWAYA performed at Pacific Hospital on or about January 23, 2013.
FOUR	04/25/2013	Check (#C7-864820), in the amount of \$69,472.51, from SCIF to Pacific Hospital for reimbursement of the claims related to the hospital-billing component of patients D.V. and C.A., whose surgeries defendant TANTUWAYA performed at Pacific Hospital on or about January 23, 2013 and January 30, 2013, respectively.
FIVE	05/16/2013	Check (#CU-013893), in the amount of \$45,128.10, from SCIF to Pacific Hospital for reimbursement of the claim related to the hospital-billing component of patient B.C., whose surgery was performed by defendant TANTUWAYA at Pacific Hospital on or about January 9, 2012.
SIX	06/21/2013	Check (#C7-882026), in the amount of \$8,891.69, from SCIF to Pacific Hospital for reimbursement of the claim related to the hospital-billing component of patient L.J., whose surgery defendant TANTUWAYA performed at Pacific Hospital on or about June 12, 2012.

COUNT	APPROXIMATE DATE	MAILING
SEVEN	07/29/2015	Check (#103089987), in the amount of \$48,170.45, from Gallagher Bassett to Pacific Hospital for reimbursement of the claim related to the hospital-billing component of patient E.R., whose surgery was performed by defendant TANTUWAYA at Pacific Hospital on or about January 9, 2013.
EIGHT	01/19/16	Check (#0124975018), in the amount of \$157,959.80, from Gallagher Bassett to Pacific Hospital for reimbursement of the claim related to the hospital-billing component of patient J.H., whose surgery defendant TANTUWAYA performed at Pacific Hospital on or about January 9, 2013 and January 30, 2013.

COUNTS NINE THROUGH ELEVEN

[18 U.S.C. §§ 1343, 1346]

33. Paragraphs 1 through 23 and 25 through 28, including all subparagraphs, are re-alleged as if fully set forth herein.

A. THE SCHEME TO DEFRAUD

34. Beginning on an unknown date, but no later than in or about January 2010, and continuing through at least January 2016, in Orange and Los Angeles Counties, within the Central District of California, and elsewhere, defendant TANTUWAYA, Drobot, Canedo, Randall, Ivar, O'Keefe, the UCCs, and others known and unknown to the Grand Jury at various times, knowingly and with intent to defraud, devised, participated in, and executed a scheme to defraud patients of their right to honest services of their physicians' performance of duties as treating physicians and medical providers by soliciting, offering, accepting, and paying bribes and kickbacks to induce the referral of Kickback Tainted Surgeries and Services to Pacific Hospital.

B. OPERATION OF THE SCHEME TO DEFRAUD

35. The fraudulent scheme operated, in substance, as set forth in paragraph 25 of this Indictment.

C. USE OF INTERSTATE WIRES

36. On or about the following dates, within the Central District of California, and elsewhere, defendant TANTUWAYA, Drobot, Canedo, Randall, Ivar, O'Keefe, the UCCs, and other co-schemers, for the purpose of executing the above-described scheme to defraud, transmitted and caused the transmission of items by means of wire communication in interstate commerce, as set forth below:

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COUNT	APPROXIMATE DATE	INTERSTATE WIRE TRANSMISSION
NINE	03/15/13	Interstate wire through US Bank servers in Olathe, Kansas, effectuating a transfer of \$47,500 from I2's City National Bank account ending in 3965 in the Central District of California to defendant TANTUWAYA's MD Aviation, LLC US Bank account ending in 6136 in San Diego, California.
TEN	06/03/13	Interstate wire through US Bank servers in Olathe, Kansas, effectuating a transfer of \$11,040.00 from I2's City National Bank account ending in 3965 in the Central District of California to defendant TANTUWAYA's MD Aviation, LLC US Bank account ending in 6136 in San Diego, California.
ELEVEN	07/16/13	Interstate wire through US Bank servers in Olathe, Kansas, effectuating a transfer of \$100,000.00 from I2's City National Bank account ending in 3965 in the Central District of California to defendant TANTUWAYA's MD Aviation, LLC US Bank account ending in 6136 in San Diego, California.

COUNT TWELVE

[18 U.S.C. §§ 1952(a)(3), 2]

37. Paragraphs 1 through 23, 25 through 28, 32, and 36, including all subparagraphs, are re-alleged as if fully set forth herein.

38. On or about March 15, 2013, in Orange and Los Angeles Counties, within the Central District of California, and elsewhere, defendant TANTUWAYA used, aided and abetted the use of, and willfully caused the use of, a facility in interstate commerce, namely, the wire communication identified in Count Nine of this Indictment, with the intent to otherwise promote, manage, establish, carry on, and facilitate the promotion, management, establishment, and carrying on of an unlawful activity, namely, kickbacks and bribes in violation of California Business & Professions Code Section 650 and California Insurance Code Section 750, and thereafter performed and attempted to perform an act to promote, manage, establish, and carry on, and to facilitate the promotion, management, establishment, and carrying on of such unlawful activity, in that on or about April 3, 2013, defendant TANTUWAYA performed a spinal surgery on patient C.H. at Pacific Hospital.

COUNT THIRTEEN

[42 U.S.C. § 1320a-7b(b)(1)(A)]

39. Paragraphs 1 through 23 and 25 through 28, including all subparagraphs, are re-alleged as if fully set forth herein.

40. On or about May 28, 2013, in Orange and Los Angeles Counties, within the Central District of California, and elsewhere, defendant TANTUWAYA, together with others known and unknown to the Grand Jury, knowingly and willfully solicited and received remuneration, directly and indirectly, in cash and in kind, that is, a check payable to MD Aviation, LLC, in the amount of \$111,040, in return for referring patients to Pacific Hospital for Kickback Tainted Surgeries and Services, specifically including the referral of patient T.M., who defendant TANTUWAYA performed surgery on at Pacific Hospital on or about May 15, 2013, for which payment was made in whole and in part under a Federal health care program, namely, the FECA program.

FORFEITURE ALLEGATION

[18 U.S.C. §§ 982(a)(7), 981(a)(1)(C) and 28 U.S.C. § 2461(c)]

41. Pursuant to Rule 32.2(a), Fed. R. Crim. P., notice is hereby given to defendant TANTUWAYA that the United States will seek forfeiture as part of any sentence in accordance with Title 18, United States Code, Sections 982(a)(7) and 981(a)(1)(C) and Title 28, United States Code, Section 2461(c), in the event of defendant TANTUWAYA's conviction under any of Counts One through Thirteen of this Indictment.

42. Defendant TANTUWAYA shall forfeit to the United States the following property:

a. all right, title, and interest in any and all property, real or personal, that constitutes or is derived, directly or indirectly, from the gross proceeds traceable to the commission of any offense set forth in any of Counts One through Thirteen of this Indictment, including but not limited to (1) \$87,462.76 in Account Funds from U.S. Bank Account No. 153467986136; and (2) \$953,415.25 in Account Funds from U.S. Bank Account No. 080015750200; and

b. a sum of money equal to the total value of the property described in subparagraph a.


43. Pursuant to Title 21, United States Code, Section 853(p), as incorporated by Title 28, United States Code, Section 2461(c), and Title 18, United States Code, Section 982(b), defendant TANTUWAYA shall forfeit substitute property, up to the total value of the property described in the preceding paragraph if, as a result of any act or omission of defendant TANTUWAYA, the property described in the preceding paragraph, or any portion thereof (a) cannot be located upon the exercise of due diligence; (b) has been transferred, sold to

1 or deposited with a third party; (c) has been placed beyond the
2 jurisdiction of the Court; (d) has been substantially diminished in
3 value; or (e) has been commingled with other property that cannot be
4 divided without difficulty.

5 A TRUE BILL

6
7 13/
8 Foreperson

9 SANDRA R. BROWN
10 Attorney for the United States,
11 Acting Under Authority Conferred
12 by 28 U.S.C. § 515

13 
14 LAWRENCE S. MIDDLETON
15 Assistant United States Attorney
16 Chief, Criminal Division

17 DENNISE D. WILLETT
18 Assistant United States Attorney
19 Chief, Santa Ana Branch Office

20 JOSEPH T. MCNALLY
21 Assistant United States Attorney
22 Deputy Chief, Santa Ana Branch
23 Office

24 ASHWIN JANAKIRAM
25 SCOTT D. TENLEY
26 Assistant United States Attorneys

27 I hereby attest and certify on 10/4/22
28 that the foregoing document is a full, true
and correct copy of the original on file in
my office, and in my legal custody.

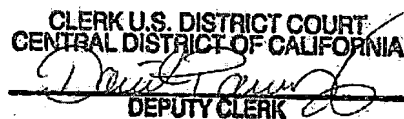
CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DEPUTY CLERK



EXHIBIT B

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Acting United States Attorney
SCOTT M. GARRINGER
Assistant United States Attorney
Chief, Criminal Division
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Attorneys for Plaintiff
UNITED STATES OF AMERICA

UNITED STATES DISTRICT COURT

FOR THE CENTRAL DISTRICT OF CALIFORNIA

UNITED STATES OF AMERICA,

Plaintiff,

v.

LOKESH TANTUWAYA,

Defendant.

No. SA CR 18-40-JLS

PLEA AGREEMENT FOR DEFENDANT
LOKESH TANTUWAYA

1. This constitutes the conditional plea agreement between Lokesh Tantuwaya ("defendant") and the United States Attorney's Office for the Central District of California (the "USAO") in the above-captioned case pursuant to Federal Rule of Criminal Procedure 11(a)(2). This agreement is limited to the USAO and cannot bind any other federal, state, local, or foreign prosecuting, enforcement, administrative, or regulatory authorities.

DEFENDANT'S OBLIGATIONS

2. Defendant agrees to:

a. At the earliest opportunity requested by the USAO and provided by the Court, appear and plead guilty to count one of the

UST

1 indictment in United States v. Tantuwaya, No. SA CR 18-40-JLS, which
2 charges defendant with conspiracy to commit offenses against the
3 United States, in violation of 18 U.S.C. § 371.

4 b. Not contest facts agreed to in this agreement.

5 c. Abide by all agreements regarding sentencing contained
6 in this agreement.

7 d. Appear for all court appearances, surrender as ordered
8 for service of sentence, obey all conditions of any bond, and obey
9 any other ongoing court order in this matter.

10 e. Not commit any crime; however, offenses that would be
11 excluded for sentencing purposes under United States Sentencing
12 Guidelines ("U.S.S.G." or "Sentencing Guidelines") § 4A1.2(c) are not
13 within the scope of this agreement.

14 f. Be truthful at all times with the United States
15 Probation and Pretrial Services Office and the Court.

16 g. Pay the applicable special assessment at or before the
17 time of sentencing unless defendant has demonstrated a lack of
18 ability to pay such assessment.

19 h. Defendant further agrees:

20 i. To the entry as part of defendant's guilty plea
21 of a personal money judgment of forfeiture against defendant, which
22 sum the Court will determine at sentencing. Defendant understands
23 that the money judgment of forfeiture is part of defendant's sentence
24 and is separate from any fines or restitution that may be imposed by
25 the Court.

26 ii. Defendant knowingly and voluntarily waives (i)
27 the requirements of Federal Rules of Criminal Procedure 32.2 and
28 43(a) regarding notice of the imposition of the money judgment of

1 forfeiture in the charging instrument, announcement of the money
2 judgment of forfeiture at sentencing, and incorporation of the
3 forfeiture in the judgment; (ii) all constitutional and statutory
4 challenges in any manner (including by direct appeal, habeas corpus,
5 or any other means) to any forfeiture carried out in accordance with
6 this agreement on any grounds; and (iii) all constitutional, legal
7 and equitable defenses to the money judgment of forfeiture in any
8 proceeding on any grounds including, without limitation, that the
9 amount of the money judgment of forfeiture constitutes an excessive
10 fine or punishment. Defendant also acknowledges and understands that
11 the money judgment of forfeiture is part of the sentence that may be
12 imposed in this case and waives any failure by the Court to advise
13 defendant of this, pursuant to Rule 11(b)(1)(J), at the time
14 defendant's guilty pleas are accepted.

15 iii. That satisfaction of the money judgment of
16 forfeiture shall not be counted toward satisfaction of any special
17 assessment, fine, remaining amounts owed on any restitution order, or
18 any other penalty the Court may impose, nor shall the satisfaction of
19 the money judgment of forfeiture be counted toward satisfaction of
20 any taxes, penalties, or interest owed to the Internal Revenue
21 Service ("IRS").

22 3. Defendant and the USAO agree that defendant's entry of a
23 guilty plea pursuant to paragraph 2(a) above will be conditional, in
24 that defendant reserves the right, on appeal from the judgment, to
25 seek review of the adverse determination of defendant's motion to
26 dismiss on Speedy Trial grounds, which is set forth at docket number
27 220. If defendant prevails on appeal, defendant will be allowed to
28 withdraw defendant's guilty plea.

THE USAO'S OBLIGATIONS

4. The USAO agrees to:

a. Not contest facts agreed to in this agreement.

b. Abide by all agreements regarding sentencing contained in this agreement.

c. At the time of sentencing, move to dismiss the remaining counts of the underlying indictment as against defendant. Defendant agrees, however, that at the time of sentencing the Court may consider any dismissed charges in determining the applicable Sentencing Guidelines range, the propriety and extent of any departure from that range, and the sentence to be imposed.

d. At the time of sentencing, provided that defendant demonstrates an acceptance of responsibility for the offenses up to and including the time of sentencing, recommend a two-level reduction in the applicable Sentencing Guidelines offense level, pursuant to U.S.S.G. § 3E1.1.

NATURE OF THE OFFENSES

5. Defendant understands that for defendant to be guilty of the crime charged in count one, that is, conspiracy to commit offenses against the United States, in violation of Title 18, United States Code, Section 371, the following must be true: (1) beginning no later than in or about 2010 and continuing through in or about 2013, there was an agreement between two or more persons to commit honest services mail fraud or wire fraud, in violation of Title 18, United States Code, Sections 1341 and 1346, and Sections 1343 and 1346, or to solicit or receive illegal remuneration for health care referrals, in violation of Title 42, United States Code, Section 1320a-7b(b)(1)(A)); (2) the defendant became a member of the

1 conspiracy knowing of at least one of its objects and intending to
2 help accomplish it; and (3) one of the members of the conspiracy
3 performed at least one overt act for the purpose of carrying out the
4 conspiracy.

5 6. Defendant understands that Honest Services Mail and Wire
6 Fraud, in violation of Title 18, United States Code, Sections 1341
7 and 1346, and Sections 1343 and 1346, each of which was an object of
8 the conspiracy, have the following elements: (1) the defendant
9 devised or knowingly participated in a scheme or plan to deprive
10 patients of their right to defendant's honest services; (2) the
11 scheme or plan consists of a bribe or kickback in exchange for
12 performing surgeries at Pacific Hospital. The "exchange" may be
13 express or may be implied from all the surrounding circumstances; (3)
14 the defendant owed a fiduciary duty to his patients; (4) the
15 defendant acted with the intent to defraud by depriving his patients
16 of their right to the defendant's honest services; (5) the
17 defendant's act was material; that is, it had a natural tendency to
18 influence, or was capable of influencing a patient's acts; (6) the
19 defendant used, or caused someone to use, the mails to carry out or
20 attempt to carry out the scheme or plan.

21 7. Defendant understands that soliciting and receiving illegal
22 remuneration for health care referrals, in violation of Title 42,
23 United States Code, Section 1320a-7b(b)(1)(A), which is an object of
24 the conspiracy charged in count one, has the following elements: (1)
25 defendant knowingly and willfully paid or received remuneration,
26 directly or indirectly, in cash or in kind, to or from another
27 person; (2) the remuneration was given to induce that person to refer
28 an individual for the furnishing or arranging for the furnishing of

1 any item or service for which payment may be made in whole or in part
2 under a Federal health care program; and (3) defendant knew that such
3 payment of remuneration was illegal.

4 PENALTIES AND RESTITUTION

5 8. Defendant understands that the statutory maximum sentence
6 that the Court can impose for a violation of Title 18, United States
7 Code, Section 371, is: 5 years' imprisonment; a three-year period of
8 supervised release; a fine of \$250,000 or twice the gross gain or
9 gross loss resulting from the offense, whichever is greatest; and a
10 mandatory special assessment of \$100.

11 9. Defendant understands that defendant will be required to
12 pay full restitution to the victim(s) of the offenses to which
13 defendant is pleading guilty. Defendant agrees that, in return for
14 the USAO's compliance with its obligations under this agreement, the
15 Court may order restitution to persons other than the victim(s) of
16 the offenses to which defendant is pleading guilty and in amounts
17 greater than those alleged in the count to which defendant is
18 pleading guilty. In particular, defendant agrees that the Court may
19 order restitution to any victim of any of the following for any
20 losses suffered by that victim as a result: (a) any relevant conduct,
21 as defined in U.S.S.G. § 1B1.3, in connection with the offense to
22 which defendant is pleading guilty; and (b) any counts dismissed
23 pursuant to this agreement as well as all relevant conduct, as
24 defined in U.S.S.G. § 1B1.3, in connection with those counts.

25 10. Defendant understands that supervised release is a period
26 of time following imprisonment during which defendant will be subject
27 to various restrictions and requirements. Defendant understands that
28 if defendant violates one or more of the conditions of any supervised

1 release imposed, defendant may be returned to prison for all or part
2 of the term of supervised release authorized by statute for the
3 offense that resulted in the term of supervised release, which could
4 result in defendant serving a total term of imprisonment greater than
5 the statutory maximum stated above.

6 11. Defendant understands that, by pleading guilty, defendant
7 may be giving up valuable government benefits and valuable civic
8 rights, such as the right to vote, the right to possess a firearm,
9 the right to hold office, and the right to serve on a jury. Defendant
10 understands that he is pleading guilty to a felony and that it is a
11 federal crime for a convicted felon to possess a firearm or
12 ammunition. Defendant understands that the conviction in this case
13 may also subject defendant to various other collateral consequences,
14 including but not limited to revocation of probation, parole, or
15 supervised release in another case and suspension or revocation of a
16 professional license. Defendant understands that unanticipated
17 collateral consequences will not serve as grounds to withdraw
18 defendant's guilty pleas.

19 12. Defendant and his counsel have discussed the fact that, and
20 defendant understands that, if defendant is not a United States
21 citizen, the conviction in this case makes it practically inevitable
22 and a virtual certainty that defendant will be removed or deported
23 from the United States. Defendant may also be denied United States
24 citizenship and admission to the United States in the future.
25 Defendant understands that while there may be arguments that
26 defendant can raise in immigration proceedings to avoid or delay
27 removal, removal is presumptively mandatory and a virtual certainty
28 in this case. Defendant further understands that removal and

1 immigration consequences are the subject of a separate proceeding and
2 that no one, including his attorney or the Court, can predict to an
3 absolute certainty the effect of his conviction on his immigration
4 status. Defendant nevertheless affirms that he wants to plead guilty
5 regardless of any immigration consequences that his pleas may entail,
6 even if the consequence is automatic removal from the United States.

7 FACTUAL BASIS

8 13. Defendant admits that defendant is, in fact, guilty of the
9 offense to which defendant is agreeing to plead guilty. Defendant
10 and the USAO agree to the statement of facts provided below and agree
11 that this statement of facts is sufficient to support plea of guilty
12 to the charge described in this agreement and to establish the
13 Sentencing Guidelines factors set forth in paragraph 15 below but is
14 not meant to be a complete recitation of all facts relevant to the
15 underlying criminal conduct or all facts known to either party that
16 relate to that conduct.

17 Defendant is a neurosurgeon. From 2010-2013, defendant
18 conspired with Michael Drobot ("Drobot") and others to commit honest
19 services fraud and violate the Anti-Kickback statute through his
20 participation in a bribery scheme. Drobot owned Pacific Hospital in
21 Long Beach, California and offered to pay defendant money in exchange
22 for spinal surgeries that defendant performed at Pacific Hospital.
23 Defendant agreed to accept the money and perform patient surgeries at
24 Pacific Hospital. The bribe amount varied depending on the type of
25 spinal surgery.

26 Defendant entered into contracts with Drobot and companies he
27 owned. Defendant knew or was deliberately ignorant that the payments
28 were being given to defendant in exchange for bringing his patient

1 surgeries to Pacific Hospital. Defendant was deliberately ignorant
2 in that he was aware of a high probability that he was receiving a
3 bribe or kickback in exchange for defendant performing surgeries at
4 Pacific Hospital and defendant deliberately avoided learning the
5 truth.

6 In furtherance of the scheme, defendant met with Drobot and
7 Drobot's employees and discussed the amount of money that he was owed
8 in exchange for bringing patient surgeries to Pacific Hospital. For
9 example, in August 2012, defendant met with N.H. and discussed with
10 N.H. the number of surgeries he performed and the amount of money
11 that he believed he was owed for bringing surgeries to Pacific
12 Hospital as part of the bribery scheme described in the indictment.
13 Drobot paid the bribes to defendant through various accounts.

14 Defendant knew that the receipt of money in exchange for the
15 referral of medical services was unlawful. Defendant owed a
16 fiduciary duty to his patients not to accept money in exchange for
17 taking their surgeries to Pacific Hospital. In total, defendant
18 received approximately \$3.3 million in illegal payments. Defendant
19 and his co-conspirators knew interstate wires and mails would be used
20 in the bribe scheme and that federal health care program insurance
21 would be billed in the scheme.

22 SENTENCING FACTORS

23 14. Defendant understands that in determining defendant's
24 sentence the Court is required to calculate the applicable Sentencing
25 Guidelines range and to consider that range, possible departures
26 under the Sentencing Guidelines, and the other sentencing factors set
27 forth in 18 U.S.C. § 3553(a). Defendant understands that the
28 Sentencing Guidelines are advisory only, that defendant cannot have

1 any expectation of receiving a sentence within the calculated
2 Sentencing Guidelines range, and that after considering the
3 Sentencing Guidelines and the other § 3553(a) factors, the Court will
4 be free to exercise its discretion to impose any sentence it finds
5 appropriate up to the maximum set by statute for the crimes of
6 conviction.

7 15. Defendant and the USAO agree to the following applicable
8 Sentencing Guidelines factors:

9 Base Offense Level: 8 USSG 2B4.1(a)

10 Kickback Amount: 16 USSG 2B1.1(b) (1)(I)

11 Position of Trust: 2 USSG 3B1.3

12 Defendant and the USAO reserve the right to argue that additional
13 specific offense characteristics, adjustments, and departures under
14 the Sentencing Guidelines are appropriate.

15 16. Defendant understands that there is no agreement as to
16 defendant's criminal history or criminal history category.

17 17. Defendant and the USAO reserve the right to argue for a
18 sentence outside the sentencing range established by the Sentencing
19 Guidelines based on the factors set forth in 18 U.S.C. § 3553(a)(1),
20 (a)(2), (a)(3), (a)(6), and (a)(7).

21 WAIVER OF CONSTITUTIONAL RIGHTS

22 18. Defendant understands that by pleading guilty, defendant
23 gives up the following rights:

24 a. The right to persist in a plea of not guilty.

25 b. The right to a speedy and public trial by jury.

26 c. The right to be represented by counsel -- and if
27 necessary have the Court appoint counsel -- at trial. Defendant
28 understands, however, that, defendant retains the right to be

1 represented by counsel -- and if necessary have the Court appoint
2 counsel -- at every other stage of the proceeding.

3 d. The right to be presumed innocent and to have the
4 burden of proof placed on the government to prove defendant guilty
5 beyond a reasonable doubt.

6 e. The right to confront and cross-examine witnesses
7 against defendant.

8 f. The right to testify and to present evidence in
9 opposition to the charges, including the right to compel the
10 attendance of witnesses to testify.

11 g. The right not to be compelled to testify, and, if
12 defendant chose not to testify or present evidence, to have that
13 choice not be used against defendant.

14 h. Any and all rights to pursue any affirmative defenses,
15 Fourth Amendment or Fifth Amendment claims, and other pretrial
16 motions that have been filed or could be filed.

17 WAIVER OF APPEAL OF CONVICTION

18 19. Defendant understands that, with the exception of an appeal
19 based on a claim that defendant's guilty plea was involuntary, or an
20 appeal on the grounds specifically reserved in paragraph 3 above, by
21 pleading guilty defendant is waiving and giving up any right to
22 appeal defendant's conviction on the offense to which defendant is
23 pleading guilty. Defendant understands that this waiver includes,
24 but is not limited to, arguments that the statute to which defendant
25 is pleading guilty is unconstitutional, and any and all claims that
26 the statement of facts provided herein is insufficient to support
27 defendant's plea of guilty.

LIMITED MUTUAL WAIVER OF APPEAL OF SENTENCE

20. Defendant agrees that, provided the Court imposes a total term of imprisonment on the count of conviction of no more than the guidelines range for an offense level of 24 and the criminal history determined by the Court, defendant gives up the right to appeal all of the following: (a) the procedures and calculations used to determine and impose any portion of the sentence; (b) the term of imprisonment imposed by the Court; (c) the fine imposed by the Court, provided it is within the statutory maximum; (d) the amount of any criminal forfeiture provided that it does not exceed \$3.3 million; (e) to the extent permitted by law, the constitutionality or legality of defendant's sentence, provided it is within the statutory maximum; (f) the amount and terms of any restitution order; (g) the term of probation or supervised release imposed by the Court, provided it is within the statutory maximum; and (h) any of the following conditions of probation or supervised release imposed by the Court: the conditions set forth in Second Amended General Order 20-04 of this Court; the drug testing conditions mandated by 18 U.S.C. §§ 3563(a)(5) and 3583(d); and the alcohol and drug use conditions authorized by 18 U.S.C. § 3563(b)(7).

21. The USAO agrees that, provided (a) all portions of the sentence are at or below the statutory maximum specified above and (b) the Court imposes a term of imprisonment within the guidelines range for an offense level of 24 and the criminal history determined by the Court, the USAO gives up its right to appeal any portion of the sentence.

1 RESULT OF WITHDRAWAL OF GUILTY PLEA

2 22. Defendant agrees that if, after entering guilty plea
3 pursuant to this agreement, defendant seeks to withdraw and succeeds
4 in withdrawing defendant's guilty plea on any basis other than a
5 claim and finding that entry into this plea agreement was
6 involuntary, then (a) the USAO will be relieved of all of its
7 obligations under this agreement; and (b) should the USAO choose to
8 pursue any charge that was either dismissed or not filed as a result
9 of this agreement, then (i) any applicable statute of limitations
10 will be tolled between the date of defendant's signing of this
11 agreement and the filing commencing any such action; and
12 (ii) defendant waives and gives up all defenses based on the statute
13 of limitations, any claim of pre-indictment delay, or any speedy
14 trial claim with respect to any such action, except to the extent
15 that such defenses existed as of the date of defendant's signing this
16 agreement.

17 RESULT OF VACATUR, REVERSAL OR SET-ASIDE

18 23. Defendant agrees that if the count of conviction is
19 vacated, reversed, or set aside, both the USAO and defendant will be
20 released from all their obligations under this agreement.

21 EFFECTIVE DATE OF AGREEMENT

22 24. This agreement is effective upon signature and execution of
23 all required certifications by defendant, defendant's counsel, and an
24 Assistant United States Attorney.

25 BREACH OF AGREEMENT

26 25. Defendant agrees that if defendant, at any time after the
27 effective date of this agreement, knowingly violates or fails to
28 perform any of defendant's obligations under this agreement ("a

breach"), the USAO may declare this agreement breached. All of defendant's obligations are material, a single breach of this agreement is sufficient for the USAO to declare a breach, and defendant shall not be deemed to have cured a breach without the express agreement of the USAO in writing. If the USAO declares this agreement breached, and the Court finds such a breach to have occurred, then: (a) if defendant has previously entered guilty pleas pursuant to this agreement, defendant will not be able to withdraw the guilty pleas, and (b) the USAO will be relieved of all its obligations under this agreement.

26. Following the Court's finding of a knowing breach of this agreement by defendant, should the USAO choose to pursue any charge that was either dismissed or not filed as a result of this agreement, then:

a. Defendant agrees that any applicable statute of limitations is tolled between the date of defendant's signing of this agreement and the filing commencing any such action.

b. Defendant waives and gives up all defenses based on the statute of limitations, any claim of pre-indictment delay, or any speedy trial claim with respect to any such action, except to the extent that such defenses existed as of the date of defendant's signing this agreement, *except as stated in paragraph 3, above.*

c. Defendant agrees that: (i) any statements made by defendant, under oath, at the guilty plea hearing (if such a hearing occurred prior to the breach); (ii) the agreed to factual basis statement in this agreement; and (iii) any evidence derived from such statements, shall be admissible against defendant in any such action against defendant, and defendant waives and gives up any claim under

1 the United States Constitution, any statute, Rule 410 of the Federal
2 Rules of Evidence, Rule 11(f) of the Federal Rules of Criminal
3 Procedure, or any other federal rule, that the statements or any
4 evidence derived from the statements should be suppressed or are
5 inadmissible.

6 COURT AND UNITED STATES PROBATION AND PRETRIAL SERVICES

7 OFFICE NOT PARTIES

8 27. Defendant understands that the Court and the United States
9 Probation and Pretrial Services Office are not parties to this
10 agreement and need not accept any of the USAO's sentencing
11 recommendations or the parties' agreements to facts or sentencing
12 factors.

13 28. Defendant understands that both defendant and the USAO are
14 free to: (a) supplement the facts by supplying relevant information
15 to the United States Probation and Pretrial Services Office and the
16 Court, (b) correct any and all factual misstatements relating to the
17 Court's Sentencing Guidelines calculations and determination of
18 sentence, and (c) argue on appeal and collateral review that the
19 Court's Sentencing Guidelines calculations and the sentence it
20 chooses to impose are not error, although each party agrees to
21 maintain its view that the calculations in paragraph 15 are
22 consistent with the facts of this case. While this paragraph permits
23 both the USAO and defendant to submit full and complete factual
24 information to the United States Probation and Pretrial Services
25 Office and the Court, even if that factual information may be viewed
26 as inconsistent with the facts agreed to in this agreement, this
27 paragraph does not affect defendant's and the USAO's obligations not
28 to contest the facts agreed to in this agreement.

1 29. Defendant understands that even if the Court ignores any
2 sentencing recommendation, finds facts or reaches conclusions
3 different from those agreed to, and/or imposes any sentence up to the
4 maximum established by statute, defendant cannot, for that reason,
5 withdraw defendant's guilty pleas, and defendant will remain bound to
6 fulfill all defendant's obligations under this agreement. Defendant
7 understands that no one -- not the prosecutor, defendant's attorney,
8 or the Court -- can make a binding prediction or promise regarding
9 the sentence defendant will receive, except that it will be within
10 the statutory maximum.

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NO ADDITIONAL AGREEMENTS

30. Defendant understands that, except as set forth herein, there are no promises, understandings, or agreements between the USAO and defendant or defendant's attorney, and that no additional promise, understanding, or agreement may be entered into unless in a writing signed by all parties or on the record in court.

PLEA AGREEMENT PART OF THE GUILTY PLEA HEARING

31. The parties agree that this agreement will be considered part of the record of defendant's guilty plea hearing as if the entire agreement had been read into the record of the proceeding.

AGREED AND ACCEPTED

UNITED STATES ATTORNEY'S OFFICE
FOR THE CENTRAL DISTRICT OF
CALIFORNIA

STEPHANIE S. CHRISTENSEN
Acting United States Attorney

JOSEPH T. MCNALLY
BILLY JOE MCLAIN
Assistant United States Attorneys

LOKESH TANTUWAYA
Defendant

MICHAEL ARTAN
KEVIN CAULEY, GLEN JONAS
ATTORNEY FOR DEFENDANT


Date

Date

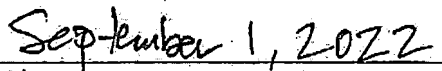
Date

CERTIFICATION OF DEFENDANT

I have read this agreement in its entirety. I have had enough time to review and consider this agreement, and I have carefully and thoroughly discussed every part of it with my attorney. I understand the terms of this agreement, and I voluntarily agree to those terms. I have discussed the evidence with my attorney, and my attorney has advised me of my rights, of possible pretrial motions that might be filed, of possible defenses that might be asserted either prior to or at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. No promises, inducements, or representations of any kind have been made to me other than those contained in this agreement. No one has threatened or forced me in any way to enter into this agreement. I am satisfied with the representation of my attorney in this matter, and I am pleading guilty because I am guilty of the charges and wish to take advantage of the promises set forth in this agreement, and not for any other reason.




LOKESH TANTUWAYA
Defendant



Date

CERTIFICATION OF DEFENDANT'S ATTORNEY

I am Lokesh Tantuwaya's attorney. I have carefully and thoroughly discussed every part of this agreement with my client. Further, I have fully advised my client of his rights, of possible pretrial motions that might be filed, of possible defenses that might be asserted either prior to or at trial, of the sentencing factors set forth in 18 U.S.C. § 3553(a), of relevant Sentencing Guidelines provisions, and of the consequences of entering into this agreement. To my knowledge: no promises, inducements, or representations of any kind have been made to my client other than those contained in this agreement; no one has threatened or forced my client in any way to enter into this agreement; my client's decision to enter into this agreement is an informed and voluntary one; and the factual basis set forth in this agreement is sufficient to support my client's entry of guilty pleas pursuant to this agreement.


MICHAEL ARTAN
KEVIN CAULEY
GLEN JONAS
Attorneys for Defendant

9/1/22
Date

I hereby attest and certify on 10/4/22
that the foregoing document is a full, true
and correct copy of the original on file in
my office, and in my legal custody.

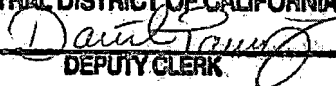
CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

DEPUTY CLERK



EXHIBIT C

UNITED STATES DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

CRIMINAL MINUTES - GENERAL

Case No. SACR 18-00040-JLS

Date September 1, 2022

Present: The Honorable JOSEPHINE L. STATON, UNITED STATES DISTRICT JUDGE

Interpreter None

V.R. Vallery
Deputy Clerk

Marea Woolrich
Court Reporter

Joseph McNally; Billy Joe McLain
Assistant U.S. Attorney

<u>U.S.A. v. Defendant(s):</u>	<u>Present</u>	<u>Cust.</u>	<u>Bond</u>	<u>Attorneys for Defendants:</u>	<u>Present</u>	<u>App.</u>	<u>Ret.</u>
Lokesh S. Tantuwaya	X	X		Glen Jonas	X		X
				Michael Artan	X		X
				Kevin Cauley	X		X

PROCEEDINGS: CHANGE OF PLEA

- ☒ Defendant moves to change plea to the Indictment.
- ☒ Defendant sworn, and states true name as charged.
- ☒ Defendant enters new and different plea of GUILTY to Count 1 of the Indictment.
- ☒ The Court questions the defendant regarding plea of GUILTY and FINDS that a factual basis has been laid, and further FINDS the plea is knowledgeable and voluntarily made. The Court ORDERS the plea accepted and entered.
- ☒ The Court further ORDERS the Plea Agreement incorporated into this proceeding.
- ☒ The Court refers the defendant to the Probation Office for investigation and pre-sentencing report, and the matter is continued to **December 9, 2022 at 9:30 a.m.** for sentencing. Further, sentencing position papers are to be filed with the Court no later than two (2) weeks before the date of sentencing, including service on the assigned U.S. Probation Officer.
- ☒ The Jury Trial date is ordered VACATED.
- ☒ The Court recommends that the defendant be returned to the facility in Santa Ana, California.

cc: USM

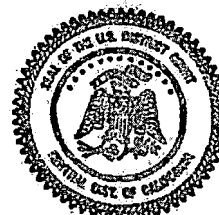
Initials of Deputy Clerk vrv

1 : 22

I hereby attest and certify on 10/4/22
that the foregoing document is a full, true
and correct copy of the original on file in
my office, and in my legal custody.

CLERK U.S. DISTRICT COURT
CENTRAL DISTRICT OF CALIFORNIA

David Tamm
DEPUTY CLERK



1258

EXHIBIT D

**United States District Court
Central District of California**

UNITED STATES OF AMERICA vs.

Docket No. SA CR 18-00040-JLS

Defendant Lokesh S. Tantuwaya

Social Security No. [REDACTED]

akas: _____

(Last 4 digits)

JUDGMENT AND PROBATION/COMMITMENT ORDER

In the presence of the attorney for the government, the defendant appeared in person on this date.

MONTH	DAY	YEAR
DEC	9	2022

COUNSEL

Michael Artan, Retained; Glen Jonas, Retained

(Name of Counsel)

PLEA

GUILTY, and the court being satisfied that there is a factual basis for the plea.

NOLO
CONTENDERENOT
GUILTY**FINDING**

There being a finding/verdict of **GUILTY**, defendant has been convicted as charged of the offense(s) of:
18 U.S.C. § 371: Conspiracy as charged in Count 1 of the Indictment.

**JUDGMENT
AND PROB/
COMM
ORDER**

The Court asked whether there was any reason why judgment should not be pronounced. Because no sufficient cause to the contrary was shown, or appeared to the Court, the Court adjudged the defendant guilty as charged and convicted and ordered that: Pursuant to the Sentencing Reform Act of 1984, it is the judgment of the Court that the defendant is hereby committed to the custody of the Bureau of Prisons to be imprisoned for a term of **60 MONTHS**.

It is ordered that the defendant shall pay to the United States a special assessment of \$100, which is due immediately. Any unpaid balance shall be due during the period of imprisonment, at the rate of not less than \$25 per quarter, and pursuant to the Bureau of Prisons' Inmate Financial Responsibility Program.

The Court finds that in light of the money judgment of forfeiture entered as of the date of sentencing, the defendant is unable to pay a fine in addition to the forfeiture.

The defendant shall comply with Second Amended General Order No. 20-04.

The Court has entered a money judgment of forfeiture against the defendant, which is hereby incorporated by reference into this judgment and is final.

The Court recommends that the Bureau of Prisons conduct a mental health evaluation of the defendant and provide all necessary treatment.

Upon release from imprisonment, the defendant shall be placed on supervised release for a term of three years under the following terms and conditions:

1. The defendant shall comply with the rules and regulations of the United States Probation & Pretrial Services Office and Second Amended General Order 20-04, including the conditions of probation and supervised release set forth in Section III of Second Amended General Order 20-04.

USA vs. Lokesh S. TantuwayaDocket No.: SA CR 18-00040-JLS

2. During the period of community supervision, the defendant shall pay the special assessment in accordance with this judgment's orders pertaining to such payment.
3. The defendant shall cooperate in the collection of a DNA sample from the defendant.
4. The defendant shall refrain from any unlawful use of a controlled substance. The defendant shall submit to one drug test within 15 days of release from custody and at least two periodic drug tests thereafter, not to exceed eight tests per month, as directed by the Probation Officer.
5. The defendant shall participate in mental health treatment, which may include evaluation and counseling, until discharged from the program by the treatment provider, with the approval of the Probation Officer.
6. The defendant shall truthfully and timely file and pay taxes owed for the years of conviction, and shall truthfully and timely file and pay taxes during the period of community supervision. Further, the defendant shall show proof to the Probation Officer of compliance with this order.
7. The defendant shall not be employed in any position that requires licensing or certification by any local, state, or federal agency without the prior written approval of the Probation Officer.
8. The defendant shall participate in a domestic violence treatment program as approved and directed by the Probation Officer.
9. The defendant shall comply with all terms of the outstanding domestic violence restraining order issued in the San Diego County Superior Court Docket No. CN372748.
10. The defendant shall apply all monies received from income tax refunds, lottery winnings, inheritance, judgments and any other financial gains to the Court-ordered financial obligation.
11. The defendant shall submit the defendant's person, property, house, residence, vehicle, papers, computers, cell phones, other electronic communications, email accounts, or other areas under the defendant's control, to a search conducted by a United States Probation Officer or law enforcement officer. Failure to submit to a search may be grounds for revocation. The defendant shall warn any other occupants that the premises may be subject to searches pursuant to this condition. Any search pursuant to this condition will be conducted at a reasonable time and in a reasonable manner upon reasonable suspicion that the defendant has violated a condition of his supervision and that the areas to be searched contain evidence of this violation.

The Court authorizes the Probation Officer to disclose the Presentence Report, and any previous mental health evaluations or reports, to the treatment provider. The treatment provider may provide information (excluding the Presentence report), to State or local social service agencies (such as the State of California, Department of Social Service), for the purpose of the client's rehabilitation.

The Court advised the defendant of his right to appeal.

The Court recommends to the Bureau of Prisons that, if the defendant can receive the necessary mental health services at FCI, Lompoc, he be designated for that facility.

The Government's motion to dismiss the remaining counts is granted.

USA vs. Lokesh S. TantuwayaDocket No.: SA CR 18-00040-JLS

In addition to the special conditions of supervision imposed above, it is hereby ordered that the Standard Conditions of Probation and Supervised Release within this judgment be imposed. The Court may change the conditions of supervision, reduce or extend the period of supervision, and at any time during the supervision period or within the maximum period permitted by law, may issue a warrant and revoke supervision for a violation occurring during the supervision period.

December 12, 2022

Date


JOSEPHINE L. STATON, U. S. District Judge

It is ordered that the Clerk deliver a copy of this Judgment and Probation/Commitment Order to the U.S. Marshal or other qualified officer.

Clerk, U.S. District Court

December 12, 2022

Filed Date

By /s/ V.R. ValleryDeputy Clerk

The defendant must comply with the standard conditions that have been adopted by this court (set forth below).

STANDARD CONDITIONS OF PROBATION AND SUPERVISED RELEASE

While the defendant is on probation or supervised release pursuant to this judgment:

1. The defendant must not commit another federal, state, or local crime;
2. The defendant must report to the probation office in the federal judicial district of residence within 72 hours of imposition of a sentence of probation or release from imprisonment, unless otherwise directed by the probation officer;
3. The defendant must report to the probation office as instructed by the court or probation officer;
4. The defendant must not knowingly leave the judicial district without first receiving the permission of the court or probation officer;
5. The defendant must answer truthfully the inquiries of the probation officer, unless legitimately asserting his or her Fifth Amendment right against self-incrimination as to new criminal conduct;
6. The defendant must reside at a location approved by the probation officer and must notify the probation officer at least 10 days before any anticipated change or within 72 hours of an unanticipated change in residence or persons living in defendant's residence;
7. The defendant must permit the probation officer to contact him or her at any time at home or elsewhere and must permit confiscation of any contraband prohibited by law or the terms of supervision and observed in plain view by the probation officer;
8. The defendant must work at a lawful occupation unless excused by the probation officer for schooling, training, or other acceptable reasons and must notify the probation officer at least ten days before any change in employment or within 72 hours of an unanticipated change;
9. The defendant must not knowingly associate with any persons engaged in criminal activity and must not knowingly associate with any person convicted of a felony unless granted permission to do so by the probation officer. This condition will not apply to intimate family members, unless the court has completed an individualized review and has determined that the restriction is necessary for protection of the community or rehabilitation;
10. The defendant must refrain from excessive use of alcohol and must not purchase, possess, use, distribute, or administer any narcotic or other controlled substance, or any paraphernalia related to such substances, except as prescribed by a physician;
11. The defendant must notify the probation officer within 72 hours of being arrested or questioned by a law enforcement officer;
12. For felony cases, the defendant must not possess a firearm, ammunition, destructive device, or any other dangerous weapon;
13. The defendant must not act or enter into any agreement with a law enforcement agency to act as an informant or source without the permission of the court;
14. The defendant must follow the instructions of the probation officer to implement the orders of the court, afford adequate deterrence from criminal conduct, protect the public from further crimes of the defendant; and provide the defendant with needed educational or vocational training, medical care, or other correctional treatment in the most effective manner.

USA vs. Lokesh S. TantuwayaDocket No.: SA CR 18-00040-JLS☒ The defendant must also comply with the following special conditions (set forth below).**STATUTORY PROVISIONS PERTAINING TO PAYMENT AND COLLECTION OF FINANCIAL SANCTIONS**

The defendant must pay interest on a fine or restitution of more than \$2,500, unless the court waives interest or unless the fine or restitution is paid in full before the fifteenth (15th) day after the date of the judgment under 18 U.S.C. § 3612(f)(1). Payments may be subject to penalties for default and delinquency under 18 U.S.C. § 3612(g). Interest and penalties pertaining to restitution, however, are not applicable for offenses completed before April 24, 1996. Assessments, restitution, fines, penalties, and costs must be paid by certified check or money order made payable to "Clerk, U.S. District Court." Each certified check or money order must include the case name and number. Payments must be delivered to:

United States District Court, Central District of California
 Attn: Fiscal Department
 255 East Temple Street, Room 1178
 Los Angeles, CA 90012

or such other address as the Court may in future direct.

If all or any portion of a fine or restitution ordered remains unpaid after the termination of supervision, the defendant must pay the balance as directed by the United States Attorney's Office. 18 U.S.C. § 3613.

The defendant must notify the United States Attorney within thirty (30) days of any change in the defendant's mailing address or residence address until all fines, restitution, costs, and special assessments are paid in full. 18 U.S.C. § 3612(b)(1)(F).

The defendant must notify the Court (through the Probation Office) and the United States Attorney of any material change in the defendant's economic circumstances that might affect the defendant's ability to pay a fine or restitution, as required by 18 U.S.C. § 3664(k). The Court may also accept such notification from the government or the victim, and may, on its own motion or that of a party or the victim, adjust the manner of payment of a fine or restitution under 18 U.S.C. § 3664(k). See also 18 U.S.C. § 3572(d)(3) and for probation 18 U.S.C. § 3563(a)(7).

Payments will be applied in the following order:

1. Special assessments under 18 U.S.C. § 3013;
2. Restitution, in this sequence (under 18 U.S.C. § 3664(i), all nonfederal victims must be paid before the United States is paid):
 - Non-federal victims (individual and corporate),
 - Providers of compensation to non-federal victims,
 - The United States as victim;
3. Fine;
4. Community restitution, under 18 U.S.C. § 3663(c); and
5. Other penalties and costs.

CONDITIONS OF PROBATION AND SUPERVISED RELEASE PERTAINING TO FINANCIAL SANCTIONS

As directed by the Probation Officer, the defendant must provide to the Probation Officer: (1) a signed release authorizing credit report inquiries; (2) federal and state income tax returns or a signed release authorizing their disclosure and (3) an accurate financial statement, with supporting documentation as to all assets, income and expenses of the defendant. In addition, the defendant must not apply for any loan or open any line of credit without prior approval of the Probation Officer.

When supervision begins, and at any time thereafter upon request of the Probation Officer, the defendant must produce to the Probation and Pretrial Services Office records of all bank or investments accounts to which the defendant has access, including any business or trust accounts. Thereafter, for the term of supervision, the defendant must notify and receive approval of the Probation Office in advance of opening a new account or modifying or closing an existing one, including adding or deleting signatories; changing the account number or name, address, or other identifying information affiliated with the account; or any other modification. If the Probation Office approves the new account, modification or closing, the defendant must give the Probation Officer all related account records within 10 days of opening, modifying or closing the account. The defendant must not direct or ask anyone else to open or maintain any account on the defendant's behalf.

The defendant must not transfer, sell, give away, or otherwise convey any asset with a fair market value in excess of \$500 without approval of the Probation Officer until all financial obligations imposed by the Court have been satisfied in full.

These conditions are in addition to any other conditions imposed by this judgment.

USA vs. Lokesh S. TantuwayaDocket No.: SA CR 18-00040-JLS**RETURN**

I have executed the within Judgment and Commitment as follows:

Defendant delivered on _____ to _____

Defendant noted on appeal on _____

Defendant released on _____

Mandate issued on _____

Defendant's appeal determined on _____

Defendant delivered on _____ to _____

at _____
the institution designated by the Bureau of Prisons, with a certified copy of the within Judgment and Commitment.

United States Marshal

By _____

Date_____
Deputy Marshal**CERTIFICATE**

I hereby attest and certify this date that the foregoing document is a full, true and correct copy of the original on file in my office, and in my legal custody.

Clerk, U.S. District Court

By _____

Filed Date_____
Deputy Clerk**FOR U.S. PROBATION OFFICE USE ONLY**

Upon a finding of violation of probation or supervised release, I understand that the court may (1) revoke supervision, (2) extend the term of supervision, and/or (3) modify the conditions of supervision.

These conditions have been read to me. I fully understand the conditions and have been provided a copy of them.

(Signed) _____
Defendant_____
Date_____
U. S. Probation Officer/Designated Witness_____
Date